

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 25

ZIKER CLEANERS, INC.

Employer

and

Case 25-RD-188375

LORIE BASS

Petitioner

and

CHICAGO MIDWEST REGIONAL JOINT BOARD,  
WORKERS UNITED an affiliate of SEIU, LOCAL  
319-C<sup>1</sup>

Union

DECISION AND DIRECTION OF ELECTION

Petitioner seeks an election among certain employees of the Employer in order for the employees to determine whether they wish to continue to be represented for the purposes of collective bargaining by the Union. The Employer did not properly submit its Statement of Position but did appear at the hearing. The Union did not submit a Statement of Position and did not appear at the hearing. Because I conclude that the unit sought by Petitioner is appropriate for collective bargaining and that a question of representation exists under Section 9(c) of the Act, I am directing an election in this matter in the unit sought by Petitioner.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>2</sup>
3. The labor organization involved has claimed to represent certain employees of the Employer.

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<sup>1</sup> Based on the totality of the record evidence, the Union's name has been corrected.

<sup>2</sup> The Employer is an Indiana corporation with a place of business in Mishawaka, Indiana, and is engaged in the business of providing dry cleaning services. During the past 12 months, a representative period, the Employer purchased and received at its Mishawaka, Indiana, facility goods valued in excess of \$50,000 directly from points outside the State of Indiana. During that same representative period, the Employer derived gross revenues in excess of \$1,000,000 from sales and the performance of services.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Pursuant to Section 102.63(b)(3) of the Board's Rules and Regulations, neither the Employer nor Union properly submitted a Statement of Position.

Section 102.66(d) of the Board's Rules and Regulations precludes a party from raising any issue, presenting any evidence relating to any issue, cross-examining any witness concerning any issue, and presenting argument concerning any issue where the party fails to raise the issue in its Statement of Position. Since neither the Employer nor Union properly submitted a Statement of Position, the Employer did not raise any issues at the hearing, and the Union did not appear at the hearing, and in view of Section 102.66(d), I instructed the hearing officer to refuse to take evidence or allow argument regarding the appropriateness of the bargaining unit. I hereby affirm those instructions and the Employer and the Union are precluded from raising any such issues.

Because the petitioned-for unit is coextensive with the existing bargaining unit and consistent with Rule Section 102.66(d) of the Board's Rules and Regulations, I direct an election in the following unit of employees:

All employees employed by Ziker Cleaners, Inc., at its Mishawaka, Indiana, facility; BUT EXCLUDING all drivers, supervisors, working supervisors, maintenance men, store employees, engineers, watchmen, janitors, clerical employees, part-time employees (defined as an employee who works twenty (20) hours per week or less, averaged over the previous twelve (12) weeks), seasonal/part-time employees, and guards as defined in the Act.

### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by the CHICAGO MIDWEST REGIONAL JOINT BOARD, WORKERS UNITED an affiliate of SEIU, LOCAL 319-C.

#### **A. Election Details**

The election will be held on Tuesday, December 20, 2016, from 9:00 a.m. to 10:00 a.m. at the Training Room of the Employer's facility located at 1240 South Byrkit Street, Mishawaka, Indiana.

## **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending November 26, 2016, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

## **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **December 6, 2016**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

**D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

**RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: December 2, 2016

A handwritten signature in black ink that reads "Colleen M. Maples". The signature is written in a cursive style with a large, stylized 'C' at the beginning.

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COLLEEN M. MAPLES  
ACTING REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS BOARD  
REGION 25  
575 N Pennsylvania Street, Suite 238  
Indianapolis, IN 46204-1520